

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LINDA SPAULDING,

Plaintiff,

-against-

6:02-CV-0779
(LEK/RFT)

JO ANNE B. BARNHART, Commissioner
of Social Security,

Defendant.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation and Order filed on February 6, 2006, by the Honorable Randolph F. Treece, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(d) of the Northern District of New York. Report-Rec. (Dkt. No. 10). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Plaintiff, which were filed on February 22, 2006¹. Objections (Dkt. No. 11).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. §

¹ It should be noted that Plaintiff’s objections were filed late. The parties have ten days from the date of the Report-Recommendation - excluding weekends, legal holidays, and the day of issuance of the Report-Recommendation - to file objections. See 28 U.S.C. § 636(b)(1); FED. R. Civ. P. 6, 72; N.D.N.Y. L.R. 72.1(b); Roldan v. Racette, 984 F.2d 85, 89 (2d Cir. 1993); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993). Although the objections should have been filed on or before Tuesday, February 21, 2006, they were actually filed on Wednesday, February 22, 2006. However, this Court will, nonetheless, consider Plaintiff’s objections at this time.

636(b). “A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id. This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.

Accordingly, it is hereby

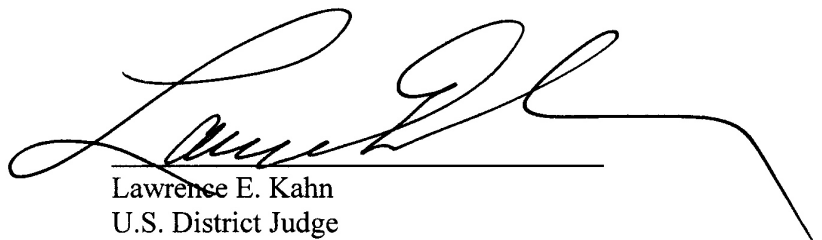
ORDERED, that the Report-Recommendation is **APPROVED** and **ADOPTED in its ENTIRETY**; and it is further

ORDERED, that the decision of the Commissioner, denying disability benefits, is **AFFIRMED**; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: March 21, 2006
Albany, New York



Lawrence E. Kahn
U.S. District Judge